

FILED
FEB - 4 2008IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORKALICE DURHAM, Individually
and as Administratrix of the
Estate of LYLE E. DURHAM,

Plaintiff,

Civil Action No. 05-CV-1404 (NAM/GHL)

vs.

ESTATE OF PERRY MITCHELL,
and PEDEX FREIGHT EAST, INC.,Defendants/Third-
Party Plaintiffs,

vs.

ANTHONY DEMARCO & SONS,
INC.,Third-Party
DefendantSTIPULATION IN ACCORDANCE WITH LOCAL RULE 83.12-10(3)

THE PARTIES HEREBY STIPULATE AND AGREE, in accordance with Local Rule of Civil Procedure 83.12-10(3), that the first-party claim filed by and on behalf of plaintiff Alice Durham, Individually and as Administratrix of the Estate of Lyle E. Durham, Deceased, against defendants/third-party plaintiffs FedEx Freight East, Inc. and the Estate of Perry Mitchell, has SETTLED, with each party to bear its own costs.

THE PARTIES FURTHER STIPULATE AND AGREE that the Third Party Complaint and all claims for damages, expenses, interest and related relief associated therewith filed by defendants/third-party plaintiffs FedEx Freight East, Inc. and the Estate of Perry

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ALEXANDER AND CATALANO


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Mitchell against Anthony DeMarco & Sons, Inc. has NOT SETTLED and has not been prejudiced or affected by the settlement of the aforementioned first-party claim.


THE PARTIES FURTHER STIPULATE AND AGREE that any Counterclaims filed by third-party defendant DeMarco & Sons, Inc. against defendants/third-party plaintiffs FedEx Freight East, Inc. and the Estate of Perry Mitchell are NOT SETTLED and have not been prejudiced or affected by the settlement of the aforementioned first-party claim.

Dated: January 29, 2008
New York, New York

RAWLE & HENDERSON LLP

By: 
James A. Wescoe
Attorneys for Defendants;
The Estate of Perry Mitchell and
FedEx Freight, Inc.
140 Broadway, 46th Floor PMB 46034
New York, New York 10005

ALEXANDER & CATALANO, LLC

By: 
James L. Donigan, Esquire
Attorneys for Plaintiff
115 E. Jefferson Street
Suite 403
Syracuse, NY 13202

LAW OFFICES OF MICHAEL J. DUNN

By: _____
Michael J. Dunn, Esquire
Attorneys for Third Party Defendant,
DeMarco & Sons, Inc.
Two Executive Campus
2370 Route 70, Suite 402
Cherry Hill, New Jersey 08002

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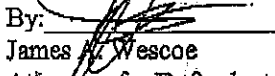
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Mitchell against Anthony DeMarco & Sons, Inc. has **NOT SETTLED** and has not been prejudiced or affected by the settlement of the aforementioned first-party claim.

THE PARTIES FURTHER STIPULATE AND AGREE that any Counterclaims filed by third-party defendant DeMarco & Sons, Inc. against defendants/third-party plaintiffs FedEx Freight East, Inc. and the Estate of Perry Mitchell are **NOT SETTLED** and have not been prejudiced or affected by the settlement of the aforementioned first-party claim.

Dated: January 29, 2008
New York, New York


RAWLE & HENDERSON LLP

By: 
James A. Wescoe
Attorneys for Defendants,
The Estate of Perry Mitchell and
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140 Broadway, 46th Floor PMB 46034
New York, New York 10005

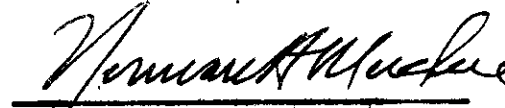
ALEXANDER & CATALANO, LLC

By: _____
James L. Donigan, Esquire
Attorneys for Plaintiff
115 E. Jefferson Street
Suite 403
Syracuse, NY 13202

LAW OFFICES OF MICHAEL J. DUNN

By: 
Michael J. Dunn, Esquire
Attorneys for Third-Party Defendant,
DeMarco & Sons, Inc.
Two Executive Campus
2370 Route 70, Suite 402
Cherry Hill, New Jersey 08002

IT IS SO ORDERED.


Norman A. Mordue
Chief Judge

Dated: February 4, 2008